

MICHAEL A. SWEET (SBN 184345)
msweet@foxrothschild.com
EDWARD J. TREDINNICK (SBN 84033)
etredinnick@foxrothschild.com
JACK PRAETZELLIS (SBN 267765)
jpraetzellis@foxrothschild.com
FOX ROTHSCHILD LLP
345 California Street, Suite 2200
San Francisco, California 94104
Telephone: (415) 364-5540
Facsimile: (415) 391-4436

Attorneys for Chapter 7 Trustee Richard Marshack

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:
DUTCHINTS DEVELOPMENT LLC,
Debtor.

Case No. 21-51255-MEH

Chapter 7

**EX PARTE APPLICATION FOR
BANKRUPTCY RULE 2004
EXAMINATION OF VARIOUS
INDIVIDUALS AND ENTITIES
CONNECTED TO THE DEBTOR**

[No HEARING REQUIRED]

Richard Marshack, Trustee of the Estate of Dutchints Development LLC (“Debtor”) the duly appointed, qualified and acting Interim Chapter 7 trustee herein, hereby applies *ex parte* to the Court, pursuant to Federal Rule of Bankruptcy Procedure 2004 (“Rule 2004”) and Bankruptcy Local Rule 2004-1(a), for the following: an Order permitting the Trustee to serve a subpoena for a deposition and/or the production of documents on the individuals and entities listed on Exhibit A hereto.

BASIS FOR REQUEST FOR RULE 2004 EXAMINATION

This case was commenced on September 29, 2021 by the filing of a voluntary petition by the Debtor under Chapter 11 of the United States Bankruptcy Code. The case was thereafter converted

1 to a Chapter 7 case on February 11, 2022. The Trustee was appointed following an election of
2 creditors.

3 Based on a review of the Debtor's schedules along with information obtained from the
4 Debtor's Accountant, creditors of the Debtor, and public records, the Trustee has identified certain
5 Individuals likely to have information or documents concerning the Debtor and its affairs. A list of
6 the individuals and entities, along with a brief statement of their connection to the Debtor, is attached
7 hereto as **Exhibit A**.

8 Bankruptcy Rule 2004 provides for the examination of any entity as well as the production of
9 documents from any entity relevant to the acts, conduct, or property or to the liabilities and financial
10 condition of the Debtor. Rule 2004 (b). The scope of a Rule 2004 examination is exceptionally
11 broad and is allowed for the purpose of discovering assets and unearthing frauds. 9 Collier on
12 Bankruptcy ¶2004.01[1] (Richard Levin & Henry Sommer eds. 16th ed.).

13 Further, the Trustee seeks to issue document subpoenas to these individuals and entities for
14 all records relating to the Debtor and to Debtor Affiliates (including the Debtor's Responsible
15 Individual) in order to learn about the financial condition of the Debtor, its operations, potential
16 transfers of property between the Debtor and Debtor Affiliates that may be subject to avoidance by
17 the Trustee. The proposed categories for production of documents are listed in **Exhibit B** attached
18 hereto.

19 WHEREFORE, the Trustee respectfully requests that an Order for Rule 2004 Examination be
20 entered permitting the Trustee to serve subpoenas on the Individuals for depositions and production
21 of documents based on the list of individuals and documents set out on **Exhibit A** and **Exhibit B** and
22 in the form of Proposed Order attached hereto as **Exhibit C** and uploaded concurrently with this
23 Application.

24 Dated: March 30, 2023.

25 Respectfully Submitted,
26 FOX ROTHSCHILD LLP
27 /s/ Jack Praetzellis
28 By: Jack Praetzellis,
Attorneys for Chapter 7 Trustee Richard
Marshack

1
2 **EXHIBIT A**
3
45 **List of Individuals and Entities**
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

<u>#</u>	<u>Last Name/ Entity</u>	<u>First Name</u>	<u>Current/Former Connection to Debtor¹</u>
1.	Tashjian	Shoushan	Former 50% owner of Debtor
2.	Arnett	Kaela	Former spouse of Vahe Tashjian, Managing Director of Debtor
3.	Spieker	Todd	Forclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
4.	Spieker	Catherine R.	Forclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
5.	Newmark Knight Frank		Agent/broker for foreclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
6.	Hopman	Joel	Agent/broker for foreclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of

¹ Exhibit A is duplicated on the Proposed Order submitted herewith with the exception of the "Current / Former Connection to Debtor" column which has been deleted from the Proposed Order.

			contract and breach of the implied covenant of good faith and fair dealing
7.	Suddjian	Keith	Agent/broker for foreclosing lender against certain real property against whom debtor may have litigation claims for, among other things, breach of contract and breach of the implied covenant of good faith and fair dealing
8.	Mancini	Randy	18771 Homestead real property foreclosing lender against whom debtor may have litigation claims, for among other things, quantum meruit
9.	Mancini	Karol	18771 Homestead real property foreclosing lender against whom debtor may have litigation claims, for among other things, quantum meruit

EXHIBIT B²

DOCUMENTS TO BE PRODUCED

DEFINITIONS

- A. The term DEBTOR shall mean Dutchints Development LLC.
 - B. The term DEBTOR-AFFILIATES shall mean the following persons or entities:
 - a. 1210 Fremont Ave LLC
 - b. 1575 Grant Road LLC
 - c. 18500 Marshall Ln LLC
 - d. 18771 Homestead Rd. LLC
 - e. 1900 Warburton Ave
 - f. 1st Street Group LLC
 - g. 1st street Group LLC
 - h. 24925 Oneonta Drive LLC
 - i. 26088 Duval LLC
 - j. 5150 ECR Group
 - k. 5150 ECR Group LLC
 - l. 5150 ECR Partners LLC
 - m. 570 S. Rengstorff Group LLC
 - n. 980 Golden Way LLC
 - o. ADL 2 LLC
 - p. Any other entity known to the person responding to this subpoena to have any point been owned or controlled, in any manner whatsoever, by the DEBTOR or any DEBTOR-AFFILIATE
 - q. Arnett, Kaela
 - r. DD 1503 Grant Road LLC

² Exhibit B is duplicated in its entirety on the Proposed Order submitted herewith.

- s. DD 1st Street Group LLC
- t. DD 20th Street Group LLC
- u. DD 5150 ECR Partners LLC
- v. DD 570 S. Regstroff Group LLC
- w. DD Bulb Rd LLC
- x. DD Fund 2 LLC
- y. DD Fund Manager LLC
- z. DD GPI LLC
- aa. DD Icon Partners LLC
- bb. DD San Carlos Avenue Group
- cc. DD Stonebrook Drive LLC
- dd. DD VDG Group LLC
- ee. DD Warburton Group LLC
- ff. DD/HLC 360 Saratoga Ave LLC
- gg. Dutchints LLC
- hh. Flip Fund LLC
- ii. Fund 2 LLC
- jj. San Carlos Ave
- kk. San Carlos Group LLC
- ll. Stonebrook Drive LLC
- mm. T Properties LLC
- nn. Tashjian Properties LLC
- oo. Tashjian, Madeline
- pp. Tashjian, Vahe
- qq. TPPG, LLC
- rr. Urban Catalyst

ss. Vahe S. Tashjian 2018 Living Trust Dated December 19,
2018

tt. Vera Ave RC LLC

uu. Warburton Group LLC

vv. Whitman, Aline Tashjian

ww. Tashjian, Shoushan

CATEGORIES FOR PRODUCTION

1. All documents, communication, and electronically stored information relating to the DEBTOR.
 2. All documents, communication, and electronically stored information relating to any DEBTOR-AFFILIATES. To the extent the party responding to this subpoena is defined as a DEBTOR-AFFILIATE, this category shall be limited to communication relating to any DEBTOR-AFFILIATE excluding the responding party.
 3. All documents, communication, and electronically stored information relating to any current or former ASSET of the DEBTOR. The term “ASSET” shall mean any personal property (e.g., cash, bank accounts, membership interests in limited liability companies, stock in corporations), real property (e.g., real estate), or intellectual property (e.g., trademarks, copyrights, patents) that was owned, in whole or in part, directly or indirectly, by the DEBTOR or any DEBTOR-AFFILIATE.
 4. All documents, communication, and electronically stored information relating to any current or former ASSET of any DEBTOR-AFFILIATE.
 5. To the extent not already provided in response to this subpoena, documents, communication, and electronically stored information relating to the financial affairs of the DEBTOR.
 6. To the extent not already provided in response to this subpoena, documents, communication, and electronically stored information relating to the financial affairs of any

1 DEBTOR-AFFILIATE.

2 7. To the extent not already provided in response to this subpoena, documents,
3 communication, and electronically stored information relating to the transfer of any ASSET between
4 the DEBTOR and the DEBTOR-AFFILIATES.

5 8. To the extent not already provided in response to this subpoena, documents,
6 communication, and electronically stored information relating to the transfer of any ASSET between
7 the DEBTOR and any entity other than the DEBTOR-AFFILIATES.

8 9. All documents and communication relating to 1877 Homestead Road, including but not
9 limited to, the acquisition and development of that property.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT C – PROPOSED ORDER

MICHAEL A. SWEET (SBN 184345)
msweet@foxrothschild.com
EDWARD J. TREDDINNICK (SBN 84033)
etreddinnick@foxrothschild.com
JACK PRAETZELLIS (SBN 267765)
jpraetzellis@foxrothschild.com
FOX ROTHSCHILD LLP
345 California Street, Suite 2200
San Francisco, California 94104
Telephone: (415) 364-5540
Facsimile: (415) 391-4436

Attorneys for Chapter 7 Trustee Richard Marshack

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:
DUTCHINTS DEVELOPMENT LLC,
Debtor.

Case No. 21-51255-MEH

**ORDER AUTHORIZING RULE 2004
EXAMINATION OF OF VARIOUS
INDIVIDUALS AND ENTITIES
CONNECTED TO THE DEBTOR**

[NO HEARING REQUIRED]

Upon the Ex Parte Application for Bankruptcy Rule 2004 Examination of Various Individuals and Entities Connected to the Debtor (the “Application”) of Richard Marshack, Trustee of the Estate of Dutchints Development LLC, (“Debtor”) and good cause appearing therefor, IT IS HEREBY ORDERED as follows:

1. The Trustee may serve a deposition subpoena upon the individuals and entities listed on Exhibit A hereto.

2. The Trustee may serve upon the individuals and entities listed on Exhibit A hereto subpoenas for the production of the categories of documents set forth in Exhibit B hereto.

1
2 **EXHIBIT A**
3

4 **List of Individuals and Entities**
5

<u>#</u>	<u>Last Name/Entity</u>	<u>First Name</u>
1.	Tashjian	Shoushan
2.	Arnett	Kaela
3.	Spieker	Todd
4.	Spieker	Catherine R.
5.	Newmark Knight Frank	
6.	Hopman	Joel
7.	Suddjian	Keith
8.	Mancini	Randy
9.	Mancini	Karol

EXHIBIT B

DOCUMENTS TO BE PRODUCED

DEFINITIONS

- A. The term DEBTOR shall mean Dutchints Development LLC.
 - B. The term DEBTOR-AFFILIATES shall mean the following persons or entities:
 - a. 1210 Fremont Ave LLC
 - b. 1575 Grant Road LLC
 - c. 18500 Marshall Ln LLC
 - d. 18771 Homestead Rd. LLC
 - e. 1900 Warburton Ave
 - f. 1st Street Group LLC
 - g. 1st street Group LLC
 - h. 24925 Oneonta Drive LLC
 - i. 26088 Duval LLC
 - j. 5150 ECR Group
 - k. 5150 ECR Group LLC
 - l. 5150 ECR Partners LLC
 - m. 570 S. Rengstorff Group LLC
 - n. 980 Golden Way LLC
 - o. ADL 2 LLC
 - p. Any other entity known to the person responding to this subpoena to have any point been owned or controlled, in any manner whatsoever, by the DEBTOR or any DEBTOR-AFFILIATE
 - q. Arnett, Kaela
 - r. DD 1503 Grant Road LLC
 - s. DD 1st Street Group LLC
 - t. DD 20th Street Group LLC

- 1 u. DD 5150 ECR Partners LLC
- 2 v. DD 570 S. Regstroff Group LLC
- 3 w. DD Bulb Rd LLC
- 4 x. DD Fund 2 LLC
- 5 y. DD Fund Manager LLC
- 6 z. DD GPI LLC
- 7 aa. DD Icon Partners LLC
- 8 bb. DD San Carlos Avenue Group
- 9 cc. DD Stonebrook Drive LLC
- 10 dd. DD VDG Group LLC
- 11 ee. DD Warburton Group LLC
- 12 ff. DD/HLC 360 Saratoga Ave LLC
- 13 gg. Dutchints LLC
- 14 hh. Flip Fund LLC
- 15 ii. Fund 2 LLC
- 16 jj. San Carlos Ave
- 17 kk. San Carlos Group LLC
- 18 ll. Stonebrook Drive LLC
- 19 mm. T Properties LLC
- 20 nn. Tashjian Properties LLC
- 21 oo. Tashjian, Madeline
- 22 pp. Tashjian, Vahe
- 23 qq. TPPG, LLC
- 24 rr. Urban Catalyst
- 25 ss. Vahe S. Tashjian 2018 Living Trust Dated December 19,
26 2018
- 27 tt. Vera Ave RC LLC
- 28

- uu. Warburton Group LLC
- vv. Whitman, Aline Tashjian
- ww. Tashjian, Shoushan

CATEGORIES FOR PRODUCTION

1. All documents, communication, and electronically stored information relating to the DEBTOR.

2. All documents, communication, and electronically stored information relating to any DEBTOR-AFFILIATES. To the extent the party responding to this subpoena is defined as a DEBTOR-AFFILIATE, this category shall be limited to communication relating to any DEBTOR-AFFILIATE excluding the responding party.

3. All documents, communication, and electronically stored information relating to any current or former ASSET of the DEBTOR. The term "ASSET" shall mean any personal property (e.g., cash, bank accounts, membership interests in limited liability companies, stock in corporations), real property (e.g., real estate), or intellectual property (e.g., trademarks, copyrights, patents) that was owned, in whole or in part, directly or indirectly, by the DEBTOR or any DEBTOR-AFFILIATE.

4. All documents, communication, and electronically stored information relating to any current or former ASSET of any DEBTOR-AFFILIATE.

5. To the extent not already provided in response to this subpoena, documents, communication, and electronically stored information relating to the financial affairs of the DEBTOR.

6. To the extent not already provided in response to this subpoena, documents, communication, and electronically stored information relating to the financial affairs of any DEBTOR-AFFILIATE

7. To the extent not already provided in response to this subpoena, documents, communication, and electronically stored information relating to the transfer of any ASSET between

the DEBTOR and the DEBTOR-AFFILIATES.

8. To the extent not already provided in response to this subpoena, documents, communication, and electronically stored information relating to the transfer of any ASSET between the DEBTOR and any entity other than the DEBTOR-AFFILIATES.

9. All documents and communication relating to 1877 Homestead Road, including but not limited to, the acquisition and development of that property.

****END OF ORDER****

1 Court Service List
2
3 All relevant parties served by ECF
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 10250 Constellation Boulevard, Suite 900, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled: EX PARTE APPLICATION FOR BANKRUPTCY RULE 2004 EXAMINATION OF VARIOUS INDIVIDUALS AND ENTITIES CONNECTED TO THE DEBTOR will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On March 30, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Marcus O. Colabianchi mcolabianchi@duanemorris.com, dmicros@duanemorris.com
 - Kathryn S. Diemer kdiemer@diemerwei.com
 - William J. Healy wjhealy7@gmail.com
 - Geoffrey A. Heaton gheaton@duanemorris.com, dmicros@duanemorris.com
 - Monique Jewett-Brewster mjb@hopkinscarley.com, eamaro@hopkinscarley.com
 - Timothy S. Laffredi timothy.s.laffredi@usdoj.gov
 - Meagen E. Leary meleary@duanemorris.com, jnazzal@duanemorris.com;tjevans@duanemorris.com
 - Benjamin R. Levinson ben@benlevinsonlaw.com
 - Susan B. Luce sluce@diemerwei.com
 - Iain A. Macdonald imac@macfern.com, 6824376420@filings.docketbird.com
 - Byron Z. Moldo bmoldo@ecjlaw.com, lpekrul@ecjlaw.com
 - Vinod Nichani vinod@nichanilawfirm.com, NichaniVR98323@notify.bestcase.com
 - Office of the U.S. Trustee / SJ USTPRegion17.SJ.ECF@usdoj.gov
 - Elvina Rafael elvina.rofael@usdoj.gov, Katina.Umpierre@usdoj.gov,GemMil.Langit@usdoj.gov
 - Valerie Jean Schratz vschratz@hallgriffin.com, llane@hallgriffin.com
 - Leonard M. Shulman lshulman@shulmanbastian.com
 - Wayne A. Silver w_silver@sbcglobal.net, ws@waynesilverlaw.com
 - Troy H. Slome tslome@mdjalaw.com, riwata@mdjalaw.com
 - Wendy W. Smith Wendy@bindermalter.com
 - Michael St. James ecf@stjames-law.com
 - Michael A. Sweet msweet@foxrothschild.com, michael-sweet-6337@ecf.pacerpro.com
 - Zachary Tyson zacharytyson@novalawgroup.com, zacharytyson@gmail.com
 - Marta Villacorta marta.villacorta@usdoj.gov
 - Kaipo K.B. Young KYoung@BL-Plaw.com

2. SERVED BY UNITED STATES MAIL: On March 30, 2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. *Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.*

FCI Lender Services, Inc.
P.O. Box 27370
Anaheim, CA 92809-0112

1 Grace C. Lee
2 MEYLAN DAVITT JAIN AREVIAN & KIM LLP
3 444 S. Flower Street, Suite 1850
Los Angeles, CA 90071

4 Leonard M. Shulman
5 SHULMAN BASTIAN FRIEDMAN & BUI LLP
100 Spectrum Center Drive, Suite 600
Irvine, CA 92618

6 Vahe Tashjian
7 901 Loyola Drive
Los Altos, CA 94024

8 American Express National Bank
9 c/o Becket and Lee LLP
PO Box 3001
10 Malvern, PA 19355-0701

11 **3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION**
OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling
12 LBR, on N/A, I served the following persons and/or entities by personal delivery, overnight mail service, or
13 (for those who consented in writing to such service method), by facsimile transmission and/or email as
follows. *Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the*
judge will be completed no later than 24 hours after the document is filed.

14
15 I declare under penalty of perjury under the laws of the United States that the foregoing is true and
16 correct.

17 March 30, 2023 Kimberly Hoang /s/ Kimberly Hoang
18 Date Printed Name Signature